

AN ORDINANCE approving Agreement for
Sanitary Sewer Extension between North
American Properties, Inc. and the City
of Fort Wayne,

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY
OF FORT WAYNE, INDIANA:

SECTION 1. That Agreement For Sanitary Sewer
Extension dated December 29, 1982, between North American
Properties, Inc. and the City of Fort Wayne, by and through
its Mayor and the Board of Public Works, for:

construction of an interconnect sanitary
sewer described as follows: Beginning
at a proposed sanitary sewer manhole
located 60+ LF south of and 10+ LF east
of the Northwest corner of Lot #14 of
Elkridge Addition; thence, Northwesterly
70+ LF to a proposed manhole located
25+ LF west of and 10+ LF north of the
Northwest corner of said Lot #14; thence
due west 110+ LF to a proposed manhole;
thence, North 130+ LF west of and parallel
to the west line of Elkridge Addition
517+ LF terminating at an existing manhole.
Said sewer shall be 18" in diameter;

involving a total cost to the City of Fort Wayne of One
Thousand Nine Hundred Seventy and 00/100 Dollars (\$1,970.00),
chargeable to W.O. 79022 as non-grant fundable for the oversizing,
all as more particularly set forth in said Agreement, which is
on file with the Office of the Board of Public Works and is by
reference incorporated herein, made a part hereof, and is hereby
in all things ratified, confirmed, and approved. Two copies of
said Agreement are on file with the Office of the City Clerk and
made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full
force and effect from and after its passage and any and all
necessary approval by the Mayor.

APPROVED AS TO FORM AND LEGALITY
THIS 26th DAY OF JANUARY, 1983.

Bruce O. Boxberger
Bruce O. Boxberger, City Attorney

Victor L. Scruggs
Councilmember

Read the first time in full and on motion by Scruggs, seconded by Scruggs, and duly adopted, read the second time by title and referred to the Committee City of Fort Wayne (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, 19____, at _____ o'clock ____ .M., E.S.T.

DATE: 1-11-83

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Read the third time in full and on motion by Scruggs, seconded by Scruggs, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 1-25-83

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (~~ZONING MAP~~) (~~GENERAL~~) (~~ANNEXATION~~) (~~SPECIAL~~) (~~APPROPRIATION~~) ORDINANCE (RESOLUTION) NO. 1-29-83 on the 25th day of January, 1983.

ATTEST:
Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

(SEAL)
Ray A. E. Bork
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of January, 1983, at the hour of 11:30 o'clock A. .M., E.S.T.

Charles W. Westerman
CHARLES W. WESTERMAN - CITY CLERK

Approved and signed by me this 26th day of Jan. 1983, at the hour of 4 o'clock P. .M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR. - MAYOR

A G R E E M E N T
F O R
S A N I T A R Y S E W E R E X T E N S I O N

THIS AGREEMENT, made in triplicate this 29 day of December, 1982, by and between NORTH AMERICAN PROPERTIES, INC., of Allen County, Indiana, an Indiana Corporation, hereinafter referred to as "OWNER" and the City of Fort Wayne, Indiana, an Indiana Municipal Corporation, hereinafter referred to as "CITY" WITNESSETH THAT:

WHEREAS, the "OWNER" desires to construct an interconnect sanitary sewer described as follows:

Beginning at a proposed sanitary sewer manhole located 60± LF south of and 10± LF east of the Northwest corner of Lot #14 of Elkridge Addition; thence, Northwesterly 70± LF to a proposed manhole located 25± LF west of and 10± LF north of the Northwest corner of said Lot #14; thence, due west 110± LF to a proposed manhole; thence, North 130± LF west of and parallel to the west line of Elkridge Addition 517± LF terminating at an existing manhole.

Said sewer shall be 18" in diameter,

in accordance with plans, specifications, and profiles heretofore submitted to and approved by "CITY" and now on file in the office of the Chief Engineer of the Water Pollution Control Engineering Department of "CITY" and known as NORTH AMERICAN VAN LINES PUMP STATION ELIMINATION sanitary sewer extension, which plans, specifications and profiles are by reference incorporated herein and made a part hereof.

WHEREAS, the total cost of construction is represented to be \$26,160.00 comprised of \$23,190.00 base bid for "OWNER'S" sanitary sewer needs, and "CITY" requested construction oversizing costs of \$1,970.00 and "CITY'S" cost of \$1,000.00 for Engineering and Inspection Fees.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The "OWNER" shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by "CITY" under private contract to be let within sixty (60) days after

the request for "CITY" approval. All work and materials shall be subject to inspection by "CITY" and the right of "CITY" to halt construction if there shall be non-compliance therewith. Said sewer shall not be deemed completed and/or permanently connected into the sewer system of "CITY" until final acceptance by "CITY." Upon acceptance by "CITY" said sewer shall become the property of "CITY" and "CITY" shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by "CITY," and all further maintenance thereafter shall be borne by "CITY."

2. COST OF CONSTRUCTION

The "OWNER" shall pay the construction base amount of \$23,190.00 direct to the Contractor. The "CITY" shall pay \$1,970.00 direct to the contractor for construction oversizing. The "CITY" shall furnish engineering and inspection for the project.

3. AREA OF OWNER

In addition to excess areas served by said oversized sewer, the sewer when accepted by the "CITY" will serve the following described real estate:

Part of the Northwest Quarter and the Southwest Quarter of Section 20, Township 31 North, Range 12 East in Allen County, Indiana, more particularly described as follows, to-wit:

Beginning on the West line of said Southwest Quarter at a point situated 157.0 feet South 00 degrees 53 minutes East from the Northwest corner of said Southwest Quarter; thence, South 00 degrees 55 minutes East, on and along said West line, being also the centerline of Kromer Road, 2501.8 feet to the Southwest corner of said Southwest Quarter; thence South 89 degrees 31 minutes East on and along said South line of said Southwest Quarter, being also the centerline of California Road, 1316.9 feet to the Southeast corner of the West Half of said Southwest Quarter; thence North 00 degrees 53 seconds West, on and along the East line of said West Half established by and existing line fence. 1110.3 feet; thence South 89 degrees 22 minutes East, on and along an existing line fence, 816.6 feet (recorded 822.8 feet) to the West line of Elkridge Addition to the City of Fort Wayne, Indiana thence North 01 degree 14 minutes West, on and along the West line of said Elkridge Addition and said West line projected Northerly 1853.8 feet to the South right-of-way line of U.S. Highway #30; thence South 74 degrees 08 minutes

West, on and along said South right-of-way line 213.8 feet; thence, Southwesterly, on and along said South right-of-way line, being a regular curve to the right, having a radius of 5814.58 feet, an arc distance of 424.02, feet, (the chord of which bears South 76 degrees 53 seconds West along and across said South right-of-way line, 508.13 feet; thence, Southwesterly, along said South right-of-way line; being a regular curve to the right, having a radius of 5829.58 feet; an arc distance of 738.86 feet (the chord of which bears 86 degrees 57 minutes 08 seconds West for a length of 738.37 feet); thence North 89 degrees 25 minutes West on and along said South right-of-way line, 174.8 feet to the East right-of-way line of Kromer Road as it presently exists; thence South 36 degrees 15 minutes West, on and along said East right-of-way line 98.15 feet; thence South 00 degrees 55 minutes East, along said East right-of-way line, 69.4 feet; thence South 89 degrees 05 minutes West, 30.00 feet to the True Point of Beginning, containing 113.299 acres of land and subject to all legal right-of-way for Kromer Road.

As "OWNER" shall pay for the base cost of construction of said sewer, as it pertains to the above-described area, no charge or assessment is made by this Agreement against the above-described real estate, for the construction of said sewer by the present or future owners of said real estate EXCEPT only as to such monthly sewage treatment charges as are customarily charged by "CITY" for connections to "CITY" sewer mains and treatment of sewage therefrom.

4. AREA CONNECTION FEES

The area of "OWNER," as described in Article 3, shall not be subject to any area connection fees and in return the "CITY" shall receive the following from the "OWNER:"

A. A deed or easement to the existing oversized sanitary sewer system including its lift station which the "OWNER" has installed at his total cost to serve excess areas in addition to their own properties.

B. A twenty (20') foot operation and maintenance easement for the portion of the existing oversized sanitary sewer system which will be deeded to the "CITY."

C. By the execution of this Agreement, North American Properties, Inc., assigns and transfers to the "CITY" all its ownership rights, easements, connection fees, etc., it has to an eight (8) and ten (10) inch sanitary sewer constructed and described in a Sewer Extension Agreement dated 14 April 1976, recorded instrument number 76-2554.

D. The dedication of the installation of the herein described inter-connect eighteen (18) inch sanitary sewer along with easements.

5. BOND

This contract is subject to "OWNER's" requirement that his contractor furnish a satisfactory Maintenance Bond, twenty-five (25%) percent of contract cost for the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by "CITY."

6. LIMITATION ON USE

Said sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors, or assigns or any future owner of any land serviced by said sewer shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste in accordance with City Municipal Code.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

The "OWNER" for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by "CITY" of any territory either now as described in Article 3 or hereafter owned by him or hereafter served by said sewer or any extension thereof.

In further consideration, and to induce "CITY" to execute and ratify this contract, said "OWNER" for himself, his successors and assigns agrees by this contract to vest in "CITY" the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

The "OWNER" agrees that any deeds, contracts, or other instruments of conveyance made by "OWNER," its successors or assigns transferring or conveying any interest in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provision contained in this article which provisions shall run with the land and the acceptance of the delivery of any such instruments from "OWNER," his successors and assigns by any grantee, vendee, or contract purchaser shall be made subj-

ect to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

"OWNER" further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of the City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of "CITY" who connect into said sewer shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said sewer. (I.C. 36-9-22-2, as added by Acts 1981 P.L. 309, 395).

8. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly appointed Ordinance, and if such Ordinance, is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement the day and year first above written.

NORTH AMERICAN PROPERTIES, INC. (owner)

By W. C. Holman

Title Vice President

ATTEST:

Margaret S. Vepler
Corporate Secretary

BOARD OF PUBLIC WORKS (city)

Stephen A. Bailey, Chairman

Roberta Anderson Staten, Member

Betty R. Collins, Member

ATTEST:

Sanford E. Kennedy
Clerk, Board of Public Works

STATE OF INDIANA)
) SS
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared W. R. Helstrom as Vice President of NORTH AMERICAN PROPERTIES, INC. and, Margaret S. Vegeler its Corporate Secretary, who acknowledged the execution of the foregoin Sewer Extension Agreement as and for their voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 27 day of December 1982

Carol J. Korte

Resident of Allen Notary Public
County

My Commission Expires: 7/15/86

STATE OF INDIANA)
) SS
COUNTY OF ALLEN)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared STEPHEN A. BAILEY, Chairman, ROBERTA ANDERSON STATEN, Member, and BETTY R. COLLINS, Member, of the Board of Public Works of the City of Fort Wayne, and acknowledged the execution of the foregoing Sewer Extension Agreement as and for their voluntary act and deed, for the uses and purposes therein contained.

WITNES my hand and notarial seal this 29 day of December 1982

Sharon J. Helmsing
Notary Public

County

My Commission Expires:

SHARON J. HELMSING, Notary Public
Resident of Allen County
My Commission Expires July 6, 1986

This instrument prepared by:
C. Duane Embury, P.E., Chief
Water Pollution Control Engineer
CITY OF FORT WAYNE

BILL NO. S-83-01-13

REPORT OF THE COMMITTEE ON CITY UTILITIES

WE, YOUR COMMITTEE ON City Utilities TO WHOM WAS REFERRED AN
ORDINANCE approving Agreement for Sanitary Sewer Extension between
North American Properties, Inc., and the City of Fort Wayne

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE do PASS.

VICTURE L. SCRUGGS, CHAIRMAN

Victure L. Scruggs

SAMUEL J. TALARICO, VICE CHAIRMAN

Samuel J. Talarico

DONALD J. SCHMIDT

D. Schmidt

MARK E. GIAQUINTA

Mark E. GiaQuinta

PAUL M. BURNS

Paul M. Burns

DATE 1-25-83 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK

TITLE OF ORDINANCE Agreement for Sanitary Sewer Extension between North American Property
Inc. and the City of Fort Wayne, Indiana

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

83-01-13

SYNOPSIS OF ORDINANCE This is an Sanitary Sewer Extension Agreement between the City
of Fort Wayne & North American Properties, Inc. at the following description:

Beginning at a proposed sanitary sewer manhole located 60+ LF south of and 10+ LF east
of the Northwest corner of Lot #14 of Elkridge Addition; thence, Northwesterly 70+ LF
to a proposed manhole located 25+ LF west of and 10+ LF north of the Northwest
corner of said Lot #14; thence due west 110+ LF to a proposed manhole; thence,
North 130+ LF west of and parallel to the west line of Elkridge Addition 517+ LF
terminating at an existing manhole. Said sewer shall be 18" in diameter.

The City of Fort Wayne would pay the pipe price difference of \$1,970.00, chargeable
to W.O. 79022 as non-grant fundable for the oversizing.

EFFECT OF PASSAGE Improved sanitary conditions.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$1,970.00

ASSIGNED TO COMMITTEE